

¹ 5 U.S.C. §§ 8101-8193.

FACTUAL HISTORY

On May 17, 2012 appellant, then a 48-year-old nurse, filed a traumatic injury claim alleging that she injured her lower back on May 5, 2012 while transferring a patient. OWCP accepted that she sustained an employment-related lumbar sprain. Appellant received continuation of pay for the period May 6 to June 19, 2012 and wage-loss compensation for the period June 20 through July 15, 2012. She returned to modified duty on July 16, 2012 and claimed intermittent disability thereafter.² Appellant received four hours for September 11, 2012. By letter dated October 2, 2012, OWCP informed her of the type of evidence needed to support her claim for compensation.

The medical evidence relevant to the dates of claimed wage loss includes a June 7, 2012 magnetic resonance imaging (MRI) scan of the lumbar spine that demonstrated minimal disc bulge at L4-5, a mild disc bulge at L5-S1 and minimal disc desiccation at L4-5 and L5-S1. In reports dated July 12, 2012, Dr. Earl Peeples, a Board-certified orthopedic surgeon, performed physical examination and diagnosed lumbar strain. He indicated that a lower extremity electrodiagnostic study demonstrated only borderline changes and there were no significant findings on the MRI scan study to suggest significant nerve root compression or significant traumatic anatomy. Dr. Peeples advised that appellant could return to light duty on July 16, 2012 with a lifting restriction of 20 pounds. In reports dated July 26, 2012, Dr. Srinivasan Ramaswamy, Board-certified in family medicine, reported that appellant continued to have low back pain. He found some tenderness in the right lower lumbar region and intact sensation in the lower extremities. Dr. Ramaswamy diagnosed back pain with radiation, unspecified and recommended continued light duty. In an undated duty status report, he noted a diagnosis of low back pain and advised that appellant could not work from August 18 to 21, 2012. In an August 29, 2012 report, Dr. Pranitha R. Nallu, Board-certified in physical medicine and rehabilitation, noted appellant's complaint of lower back pain and bilateral lower extremity pain, right worse than left. She indicated that she reviewed the MRI scan and electrodiagnostic studies and diagnosed lower back pain secondary to lumbar strain/sprain, lumbar degenerative disc disease with disc bulges at L4-5 and L5-S1, an annular tear at L4-5 and possible right sacroiliitis. Dr. Nallu recommended physical therapy. OWCP approved physical therapy on September 7, 2012.³ In an undated disability slip and on an undated duty status report, Dr. Ramaswamy advised that appellant should be off work on September 11, 2012 for "medical reasons." On October 11, 2012 he advised that she had been seen several times from May 9 through September 11, 2012 for a back injury she sustained at work. Dr. Ramaswamy continued that appellant was off work intermittently due to the disability resulting from radiating back pain. Dr. Nallu continued to submit reports through October 25, 2012 advising that appellant should continue light duty with no lifting greater than 20 pounds with limited bending, stooping and twisting.

² Appellant specifically claimed disability compensation for eight hours each on July 30, 31, August 18, 20, 21, September 11 and 18, 2012. As noted above, she was paid compensation for four hours on September 11, 2012. Appellant's modified duty included restrictions of no lifting, pulling or pushing greater than 20 pounds.

³ Appellant attended therapy sessions on September 6, 12, 13, 26 and 27 and October 3, 4, 11, 17 and 18, 2012.

By decision dated December 4, 2012, OWCP denied appellant's claim for monetary compensation for July 30, 31, August 18, 20, 21 and September 18, 2012 and for four hours on September 11, 2012 on the grounds that the medical evidence did not establish that the claimed disability was due to the accepted conditions.

LEGAL PRECEDENT

Under FECA the term "disability" is defined as incapacity, because of employment injury, to earn the wages that the employee was receiving at the time of injury.⁴ Disability is thus not synonymous with physical impairment which may or may not result in an incapacity to earn the wages. An employee who has a physical impairment causally related to a federal employment injury but who nonetheless has the capacity to earn wages he or she was receiving at the time of injury has no disability as that term is used in FECA⁵ and whether a particular injury causes an employee disability for employment is a medical issue which must be resolved by competent medical evidence.⁶ Whether a particular injury causes an employee to be disabled for work and the duration of that disability, are medical issues that must be proved by a preponderance of the reliable, probative and substantial medical evidence.⁷

The Board will not require OWCP to pay compensation for disability in the absence of any medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow employees to self-certify their disability and entitlement to compensation.⁸ Furthermore, it is well established that medical conclusions unsupported by rationale are of diminished probative value.⁹

Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.¹⁰ The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the employee.¹¹ Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.¹²

⁴ See *Prince E. Wallace*, 52 ECAB 357 (2001).

⁵ *Cheryl L. Decavitch*, 50 ECAB 397 (1999); *Maxine J. Sanders*, 46 ECAB 835 (1995).

⁶ *Donald E. Ewals*, 51 ECAB 428 (2000).

⁷ *Tammy L. Medley*, 55 ECAB 182 (2003); see *Donald E. Ewals*, *id.*

⁸ *William A. Archer*, 55 ECAB 674 (2004); *Fereidoon Kharabi*, 52 ECAB 291 (2001).

⁹ *Jacquelyn L. Oliver*, 48 ECAB 232 (1996).

¹⁰ *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

¹¹ *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

¹² *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

ANALYSIS

The Board finds that appellant did not meet her burden of proof to establish that she was entitled to disability compensation for July 30, 31, August 18, 20, 21 and September 18, 2012 and four hours on September 11, 2012 due to the accepted May 5, 2012 traumatic injury.

OWCP accepted that on May 5, 2012 appellant sustained a lumbar sprain while transferring a patient. She received appropriate continuation of pay and wage-loss compensation through July 15, 2012. Appellant returned to modified duty on July 16, 2012 and thereafter claimed intermittent compensation for the above dates.

The medical evidence relevant to the specific dates of claimed compensation includes reports from Dr. Nallu dated August 29 to October 25, 2012. Dr. Nallu, however, merely discussed appellant's condition, described examination findings and recommended physical therapy. She did not provide an opinion as to whether appellant should or should not work. Dr. Nallu's opinion is therefore insufficient to entitlement to disability compensation.

In an undated duty status report, Dr. Ramaswamy, an attending family physician, noted a diagnosis of low back pain and advised that appellant could not work from August 18 to 21, 2012. In an undated disability slip and on an undated duty status report, he advised that she should be off work on September 11, 2012 for "medical reasons." On October 11, 2012 Dr. Ramaswamy advised that appellant had been seen several times from May 9 through September 11, 2012 for a back injury she sustained at work. He continued that she was off work intermittently due to the disability resulting from radiating back pain. Dr. Ramaswamy, however, did not provide any explanation in his reports as to why appellant could not perform her modified position.¹³ He did not profess any knowledge of her specific job duties or provide a rationalized explanation as to why she could not work for the claimed periods.

When a physician's statements regarding an employee's ability to work consist only of repetition of the employee's complaints that he or she hurt too much to work, without objective findings of disability being shown, the physician has not presented a medical opinion on the issue of disability or a basis for payment of compensation¹⁴ and the Board has long held that medical conclusions unsupported by rationale are of diminished probative value and insufficient to establish causal relationship.¹⁵ The Board will not require OWCP to pay compensation for disability in the absence of any medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow employees to self-certify their disability and entitlement to compensation.¹⁶ As there is no rationalized medical evidence contemporaneous with the periods of claimed disability, appellant failed to

¹³ *Supra* note 2.

¹⁴ *G.T.*, 59 ECAB 447 (2008).

¹⁵ *See Albert C. Brown*, 52 ECAB 152 (2000).

¹⁶ *William A. Archer*, *supra* note 8.

meet her burden of proof to establish entitlement to total disability compensation for July 30, 31, August 18, 20, 21 and September 18, 2012 and four hours on September 11, 2012.¹⁷

The Board however notes that appellant would be entitled to wage-loss compensation for attending medical appointments.¹⁸ Appellant was compensated for four hours on September 11, 2012 when she had an appointment with Dr. Ramaswamy and the record does not indicate that she received treatment, testing or therapy on other dates of claimed compensation.¹⁹

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant did not establish that she was entitled to total disability compensation for July 30, 31, August 18, 20, 21 and September 18, 2012 and for four hours on September 11, 2012.

¹⁷ See *Tammy L. Medley*, *supra* note 7.

¹⁸ If a claimant has returned to work following an accepted injury or the onset of an occupational disease and must leave work and lose pay or use leave to undergo treatment, examination or testing for the accepted condition, compensation should be paid for wage loss under section 8105 of FECA, while undergoing the medical services and for a reasonable time spent traveling to and from the location where services were rendered. 5 U.S.C. § 8105. For a routine medical appointment, a maximum of four hours of compensation is usually allowed. See *William A. Archer*, *supra* note 8.

¹⁹ *Supra* note 3 lists dates appellant had physical therapy.

ORDER

IT IS HEREBY ORDERED THAT the December 4, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 9, 2013
Washington, DC

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board